

REMARKS

The Examiner correctly states that the Msdn reference cannot serve as prior art under any section of 35 U.S.C. §102, because the reference “cannot be properly dated.” The Msdn reference cited by the Examiner is dated June 13, 2004, after the earliest effective filing date of the referenced application. The Examiner bears the burden of showing that a prior art reference qualifies under §102 by antedating the earliest effective filing date of the application. The Examiner has failed to do so in this case. Furthermore, the Msdn reference referred to by the Examiner neither discloses nor suggests each and every element of the claimed invention (claims 1-24), and the Examiner has failed to establish a *prima facie* case that claims 1-24 are rendered obvious by the Msdn reference in view of Hoyt *et al.* Accordingly, the cited Msdn reference cannot anticipate or render the claimed invention obvious. This determination was reached by a three-member panel of the United States Patent and Trademark Office (Gregory A. Morse, Supervisory Patent Examiner; Gilberto Barron, Supervisory Patent Examiner; and David Jung, Patent Examiner), following a Pre-Appeal Brief Review. On November 21, 2005, a Panel Decision, withdrawing the rejection of claims 1-24, as purportedly obvious over the Msdn reference in view of Hoyt *et al.*, was communicated to the Applicants.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 13-3250, reference No. 02012.04121. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

MILBANK, TWEED, HADLEY & MCCLOY LLP

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Allison Fulton
Reg. No. 57, 106

Customer No. 000038647

Milbank, Tweed, Hadley & McCloy LLP
International Square Building
1850 K Street, N.W., Suite 1100
Washington, D.C. 20006
Telephone: (202) 835-7500
Facsimile: (202) 835-7586